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IN THE SUPREME COURT OF THE UNITED STATES

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SUPREME COURT, U.S.

FREDERICK DOUGLAS BRAY #76252
Petitioner Pro Se

versus

THE STATE OF OKLAHOMA
Respondent.

Case Number: 79-5930

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PETITIONER'S REPLY
and,
PETITIONER'S MOTION TO STRIKE RESPONDENT'S PROPOSITION #1

I

COMES NOW the Petitioner Frederick Douglas Bray and urges in REPLY to the Respondent's Rpoposition #1 the following. The petitioner states that the Respondent Danny Shadid has falsely and erroneously said in his Proposition #1 that "INTENT" was the Issue Presented". The petitioner points out that his argument is the failure of the prosecutor to produce any testimony at his jury trial in support of the following:

"ATTEMPTED TO TAKE PERSONAL PROPERTY FROM JACK LEDFORD"

The above allegation is the "OVERT ACT" that is set out on the face of the Information #33558.

The Asiistant Attorney General Danny Shadid falsely and erroneously contended that the "SHOOTING" is an essential element of robbery. The Petitioner urges that "SHOOTING" is a wholly separate crime and is not an element of robbery. ASPORTATION is the essential element of robbery and, in this instant case, Attempted Asportation is the "OVERT ACT" in controbersy here. See....Respondent's Response #79-5930 where Danny Shadid said:

Proposition #1 "Whether the evidence at trial, when taken in a light most favorable to the prosecution was sufficient to allow a rational trier of fact to find beyond a reasonable doubt the existence of an INTENT to rob the victim."

The Petitioner Frederick Douglas Bray states that the above Proposition #1 is false and erroneous for the following reasons.

The Respondent falsely claims that INTENT is the "ISSUE PRESENTED" but the Opinion #PC-79-446 of the Oklahoma Court of Criminal Appeals states the following:

See ..... Opinion #PC-79-446 .....

> Frederick Douglas Bray "seeks to have the conviction in Oklahoma County Case Number 33558 set aside on the ground that there was not proof beyond a reasonable doubt of EVERY NECESSARY FACT in the conviction. In affirming his conviction in that case, this court stated that there was ample evidence to support the conviction. See BRAY V. STATE, Okl. Cr., 450 P.2d at 516.
>
> For that reason, the denial of petitioner's Application for post conviction relief is hereby affirmed.
>
> So Ordered.
>
> Witness Our Hands And The Seal Of This Court, this 17th day of October, 1979."
>
> /s/ Tom Cornish, Presiding Judge
>
> /s/ Tom Brett, Judge
>
> /s/ Hez Bussey, Judge

The charge set out in INFORMATION #33558 is as follows:

> "* * * DID ATTEMPT TO TAKE PERSONAL PROPERTY FROM JACK LEDFORD"

The petitioner set out his Argument Part A, page #8, of the Petition For Writ of Certiorari as follows:

> "No witness testified that Frederick Douglas Bray (1) took any money or property, (2) no witness testified that Frederick Douglas Bray requested the victim to give him any money or property and (3) no witness testified that Frederick Douglas Bray attempted to take any money or property, thus, there is no proof in the record that the prosecutor proved beyond a reasonable doubt the essential element "DID ATTEMPT TO TAKE PERSONAL PROPERTY."

As shown above, INTENT IS not the issue presented, to the contrary, the issue presented is the failure of the prosecutor to submit evidence in support of the charge set out on the face of the INFORMATION #33558 "DID ATTEMPT TO TAKE PERSONAL PROPERTY". In other words ASPORTATION or rather attempted ASPORTATION which is the alleged "OVERT ACT".

The Assistant Attorney General Danny Shadid erroneously claimed that the "SHOOTINC" is an element of robbery and based his entire argument upon this fallacy. The Defendant Frederick Douglas Bray was tried and convicted by a jury in a separate trial for the "SHOOTING"; see BRAY V. STATE, Okl. Cr., 450 P.2d 512. The "OVERT ACT" in a given robbery case is ASPORTATION or an Attmepted Asportation.

II

The petitioner Frederick Douglas Bray moves to strike the Respondent's first Proposition since "INTENT" is not the issue presented. The petitioner points out that the Respondent Danny Shadid is an attorney and, for that reason, there is a presumption of competence since Danny Shadid is an Assistant Attorney General. But compare the following as the same appears in the Respondent's Response #79-5930, page #1

Respondent's Response #1 ... "Whether the evidence at trial, when taken in a light most favorable to the prosecution, was sufficient to allow a rational trier of fact to find beyond a reasonable doubt the existence of an INTENT to rob the victim.

/s/ Danny Shadid, Assistant Attorney General
Dated March 25, 1980

The Petitioner Frederick Douglas Bray moves to strike the above contention since the Respondent has falsely and erroneously set out an issue that does not appear in the Petitioner's Petition For Writ Of Certiorari #79-5930.

CONCLUSION

Wherefore the petitioner prays that the court will grant the petitioner's motion To Strike the Respondent's Response #1 as set out above. It is so Prayed.

Respectfully submitted,

Frederick D. Bray
Frederick Douglas Bray, #76252